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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,494	02/27/2004	William Daniel Willey	0108-0244/2	7431
33787	7590	11/28/2007	EXAMINER	
JOHN J. OSKOREP, ESQ.			MURPHY, RHONDA L	
ONE MAGNIFICENT MILE CENTER				
980 N. MICHIGAN AVE.			ART UNIT	PAPER NUMBER
SUITE 1400				2616
CHICAGO, IL 60611				
			MAIL DATE	DELIVERY MODE
			11/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/788,494	WILLEY ET AL.
	Examiner Rhonda Murphy	Art Unit 2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 September 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 2/27/04 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Amendment***

1. This communication is responsive to the amendment filed on 9/13/07.

Accordingly, claims 1-30 are currently pending in this application.

### ***Response to Arguments***

1. Applicant's arguments filed 9/13/07 have been fully considered but they are not persuasive. Applicant argues the teaching of "flow control process." "Flow control process" is taught by Islam on page 4, paragraph 49 as "steps in the method". Applicant argues the Islam reference fails to teach "causing the flow control process to be bypassed for the mobile station..." and "otherwise allowing the flow control process to be performed for the mobile station...". However, Examiner respectfully disagrees and would like to direct the applicant to the cited column and line numbers in the rejection below.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Islam et al. (US 2006/0104211 A1).

**Regarding claims 1,** Islam teaches a method of controlling wireless network operations associated with a flow control process of a wireless communication network (page 1, paragraph 8), the flow control process being operative to terminate data communication to a mobile station based on detection of an out-of-coverage condition between the mobile station and the wireless communication network (page 1, paragraph 8), the method comprising the acts of: identifying, by a network processor (inherent in mobile devices), an indication which indicates whether the mobile station or application thereof utilizes an always-on connection for a data service provided via the wireless communication network (page 2, paragraph 27; also described on page 3, paragraph 34); causing, by the network processor, the flow control process ("steps in the method; page 4, paragraph 49) to be bypassed for the mobile station based on the indication indicating that the mobile station or the application thereof utilizes the always-on connection for the data service (page 4, paragraph 49); and otherwise, allowing the flow control process to be performed for the mobile station based on the indication indicating that the mobile station or the application thereof fails to utilize the always-on connection (page 4, paragraph 50 to page 5, paragraph 51).

**Regarding claim 2,** Islam teaches the method of claim 1, wherein the always-on connection comprises a Point-to-Point Protocol (PPP) session (page 5, paragraph 51).

**Regarding claim 3**, Islam teaches the method of claim 1, wherein the always-on connection is utilized for a data service comprising an e-mail communication service (page 2, paragraph 23).

**Regarding claim 4**, Islam teaches the method of claim 1, further comprising: wherein the act of identifying comprises receiving the indication based on data associated with the mobile station or the data service (page 4, paragraph 49).

**Regarding claim 5**, Islam teaches the method of claim 1, further comprising: wherein the act of identifying comprises receiving the indication from the mobile station through the wireless communication network (page 4, paragraph 49).

**Regarding claim 6**, Islam teaches the method of claim 1, further comprising: wherein the act of identifying comprises receiving the indication from the mobile station through the wireless communication network in response to an input signal at a user interface of the mobile station (page 4, paragraph 46).

**Regarding claim 7**, Islam teaches the method of claim 1, further comprising: wherein the act of identifying the indication comprises identifying the always-on connection based on data associated with the data service (page 2, paragraph 27; also described on page 3, paragraph 34).

**Regarding claim 8**, Islam teaches the method of claim 1, further comprising: wherein the act of identifying the indication comprises identifying a relatively low data rate of the data service (page 4, paragraph 46).

**Regarding claim 9**, Islam teaches the method of claim 1, further comprising: wherein the act of identifying the indication comprises identifying a predetermined Quality of Service (QoS) associated with the data service (page 3, paragraph 34).

**Regarding claim 10**, Islam teaches the method of claim 1, wherein the data service is one data service of a plurality of data services concurrently utilized by the mobile station (page 4, paragraph 49; voice and SMS traffic).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 11 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Islam et al. (US 2006/0104211 A1).

**Regarding claims 11 and 21**, Islam teaches the same limitations described above in the rejection of claim 1. Islam further teaches a Radio Access Network (RAN) (Fig. 5) comprising: a Packet Service Data Node (Fig. 5; PDSN 108).

Islam fails to explicitly disclose a Packet Control Function (PCF) operative to perform the functions described above in the rejection of claim 1.

However, it is known in the art the Packet Control Functions are utilized in Radio Access Networks. Therefore, it would have been obvious to one skilled in the art to incorporate packet control functions in a radio access network, so as to provide means for controlling the packets as they are transmitted through a network.

**Regarding claims 12 and 22**, Islam teaches the same limitations described above in the rejection of claim 2.

**Regarding claims 13 and 23**, Islam teaches the same limitations described above in the rejection of claim 3.

**Regarding claims 14 and 24**, Islam teaches the same limitations described above in the rejection of claim 4.

**Regarding claims 15 and 25**, Islam teaches the same limitations described above in the rejection of claim 5.

**Regarding claims 16 and 26**, Islam teaches the same limitations described above in the rejection of claim 6.

**Regarding claims 17 and 27**, Islam teaches the same limitations described above in the rejection of claim 7.

**Regarding claims 18 and 28**, Islam teaches the same limitations described above in the rejection of claim 8.

**Regarding claims 19 and 29**, Islam teaches the same limitations described above in the rejection of claim 9.

**Regarding claims 20 and 30**, Islam teaches the same limitations described above in the rejection of claim 10.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 9:00 - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rhonda Murphy  
Examiner  
Art Unit 2616

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